



IN THE

Congress of the United States,

U. S. Senate
Before the Committee on Indian Affairs.

—
A BILL

TO CHANGE THE BOUNDARIES OF THE
UNPCOMPAHGRE RESERVATION.

Argument on the provisions of the measure in behalf
of claimants who located the Bonanza, Cow Boy,
and Little Bonanza Lodes, May 21, 1888, and
whose claims were duly recorded August 27, 1888.



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TO CHANGE
THE
Boundaries of the Uncompahgre
Reservation.

It is understood that several (13 or more) fissure veins or lodes of gilsonite have been discovered within the eighteen townships of land sought to be restored to the public domain by the bill S. 574; some of these veins are covered by several claims. The names of the claims filed by the petitioners presenting this argument are as follows :

BONANZA LOD—Frying Pan and Utah.

Cow Boy LODE—White River, Kansas City, Joseph A. Thatcher, Scorpion, Lucky Boy, Leavenworth, Cow Boy, Dixie, Bandana, Archie, Davy Crocket, Plumed Knight, Raffle, Black Jack, Wasatch, New York, Lorna Doone, Eureka and Colorow.

LITTLE BONANZA LODE—Mary Me and Ouray.

PETITION.

Whereas, a wealthy corporation owning a small fraction of the vast deposits of gilsonite which exist within a few townships of North-Eastern Utah, have endeavored to secure legislation by Congress, enabling them to obtain all of said deposits, so as substantially to establish a monopoly of this valuable mineral;

And whereas, Adolphus Busch, of said corporation has formally offered to buy from the United States *all* of said mineral deposits to be found within eighteen townships containing said gilsonite;

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And whereas, the consummation of such sale of these lands and minerals would deprive many less wealthy citizens of their rights by discovery to these minerals, which rights they are ready to perfect when permitted legally to do so.

And whereas the distribution of these mineral lands to a large number of owners will greatly promote the early development of the region of country lying south of the Uintah Mountains; while the possession of them by a single corporation will blight the region.

We ask that RIGHT BY DISCOVERY be maintained, that justice be done us, most of whom are pioneer settlers in the region; whose discovery of the Bonanza, Cow Boy and Little Bonanza lodes were made before any gilsonite lands had been sold, who were then ignorant of the reservation boundaries and who have since been traduced as dishonest intruders, while in fact we were continuously obedient to the law, avoiding trespassing and were respectful to the Indian Agent in charge of the reservation.

We ask the following amendment to the bill submitted by the Committee on Indian Affairs at the end of the 9th line of Section 2, to wit:

Provided, that any mineral location, heretofore made or attempted to be made on said lands, or any part thereof, by any qualified person, who shall have made the same in good faith, shall bear date, and be allowed according to priority of claim therefor, as if said lands had been public lands at the time said mineral location was made or attempted to be made.

THE BILL S. 574 AND COMMENTS THEREON.

The bill (S. 574), introduced by Senator Teller, which was read twice and referred to the Committee on Indian Affairs (Dec. 10, 1891), was as follows:

A BILL

To change the boundaries of the Uncompahgre Reservation.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That so much of the Uncompahgre Ute Indian Reservation, in the Territory of

Utah, as is contained within the following description, namely, the two ranges of townships on the east side of said reservation adjoining the Colorado State line, being ranges twenty-four and twenty-five east, Salt Lake meridian, be, and the same is hereby, declared to be public lands of the United States, and restored to the public domain.

SEC. 2. That from and after the passage of this act any of said lands that may be more valuable for mineral purposes than for agriculture shall be open for exploration and purchase by citizens of the United States and those who have declared their intention to become such, according to existing laws for the disposal of mineral lands; and such portions thereof as may be non-mineral in character shall be otherwise disposed of according to the existing laws for the disposal of other public lands of the United States; and the proceeds from these lands shall constitute a fund in the Treasury of the United States to be devoted to the education and civilization of said Uncompahgre Ute Indians, in such manner as Congress shall hereinafter declare.

We believe that this bill should contain provision recognizing a right to mineral claims, for the discovery thereof, heretofore made, within the area of these lands, under *bona fide* proceedings by the claimants; we are prepared to yield obedience to the law and accept, as the best we can get, the legislation provided for in the above bill, which is impartial to that extreme degree that it will open the way for working some injustice to us. It may compel us to bear costly litigation in defending the rights which the Supreme Court of the United States says locators have the privilege of perfecting when reservation lands are restored to the public domain.

We believe that the bill should contain the following proviso, copied from the Act of May 24, 1888 :

“*Provided*, That any location, entry, or entries, mineral or non-mineral, heretofore made or attempted to be made, on said lands, or any part thereof, by any qualified person, shall bear date, and be allowed, the same as if said lands had been public lands at the time of said attempted location or institution of said proceedings.”

Attention is respectfully invited to the fact that said act of May 24, 1888, which restored to the public domain a part of the

Uintah Valley Indian Reservation was passed to enable the promoters of the St. Louis Gilsonite Company to buy their mines, for the protection of which they are now unfavorable to like legislation similarly favorable to others.

The discovery of the Cow Boy and two Bonanza lodes was made May 21, 1888, before the change in the boundaries of the Uintah Valley Reservation were made, and should have been provided for in the same legislation.

THE COMMITTEE'S BILL.

The amended bill, submitted by the Senate Committee on Indian Affairs February 16, 1892, reads as follows:

A bill to change the boundaries of the Uncompahgre Reservation.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior is hereby authorized to cause to be surveyed, in accordance with the laws of the United States, but subject to his special direction in order to the proper division into lots of lands having mineral thereon, so much of the land or country lying within the Uncompahgre Ute Indian Reservation in the Territory of Utah as is contained within the two ranges of townships on the east side of said reservation adjoining the Colorado State line, being ranges twenty-four and twenty-five east from the Salt Lake meridian, and as he shall think desirable for the public interest and not incompatible with the interests of the Indians upon said reservation.

SEC. 2. That after the completed survey and platting of the lands which shall be so ordered to be surveyed under the preceding section shall have been made, the Secretary of the Interior may dispose of the same at public auction, after due notice of not less than ninety days, and in lots not exceeding one hundred and sixty acres to any one purchaser, to the highest bidder for cash, but no lot or subdivision as surveyed which shall contain asphalt or gilsonite or other valuable mineral shall be sold at a less price than ten dollars per acre, nor any other land at less than one dollar and twenty-five cents per acre; and the moneys received from such sale shall be paid into the Treasury of the United States.

We are not concerned about the disposition which the Government may make of the moneys received for the lands sold. Our

interest is that of retaining our own right of purchase, which we secured years since, by proceedings taken in strict conformity with the laws of the United States, and we think that we ought not to be now deprived of our contingent right by *ex post facto* legislation, which this bill, as amended, would become if passed. In our opinion it is a measure in the interest of monopolists. *It is unamerican.* It gives to wealthy corporations a chance to bar out all discoverers, and it is a bar to further discoveries being made of mineral within this strip. What inducement is there in the bill to encourage any one to prospect for minerals within these two ranges of townships? If any were found the finders would be compelled to compete for ownership with corporations who would not know of their existence until advertised for sale. All precedents that we have to guide us recognize the prior rights of discoverers, and we think the proposed legislation should do the same.

The distribution of these mineral lands to a large number of owners will greatly promote the early development of the country south of the Uintah Mountains, while the possession by a single company will blight the region. In fact the situation which would exist in the latter case would be a realization of monopolistic control, in respect to asphalt industries, much worse than that of the Standard Oil Company over petroleum industries, or that of anthracite coal proposed by the Reading Railroad Company.

ON THE REPORT OF THE COMMITTEE.

We present for your coconsideration our view of the report number 240, which the Senate Committee on Indian Affairs submitted with the amended bill February 16, 1892.

The part of the Committee's report which relates to the method of sale proposed for these lands reads as follows:

Since the land mentioned in this bill was included within the Uncompahgre Ute Reservation it has been discovered to contain large and valuable veins of gilsonite or asphaltum. The discovery does not appear to have been made by any particular

person or under any such circumstances as gives any particular person the least equitable claim beyond the general public.

It appears that the Committee was not in the possession of correct information concerning the discovery of certain mineral claims made by us, which information is a matter of record in the form of written descriptions made as the law prescribed, and recorded where and as the law compels, and it was not until we had, with a compass, surveyed lines to connect the locations with marks established by the United States Government that we ascertained their relations to an Indian Reservation.

The continuous reading of the Committee's report is as follows:

Neither could any private parties have acquired by any attempted location or settlement or other form of claim the slightest right to any special preference or recognition on the part of the Government.

We believe that the declaration made in these sentences of the Committee's report was written without duly considering the fact that the Supreme Court of the United States (Vol. 121, page 393, etc.) concedes that the preliminary steps taken by a discoverer to establish a mining claim within an Indian Reservation, while not creating any absolute right, does confer a contingent right entitling them to protection therein if, after the lands are restored to the public domain, they proceed diligently to perfect their title as the law may require.

If we were trespassers at the time, it was because the boundary of the reservation was unknown to us. Our discovery was made at an early date before the transfer of any gilsonite lands to the public domain, and while the promoters of the St. Louis Gilsonite Company were developing their mines. We are aware that the reflections on all claimants to discoveries of gilsonite veins, other than those of the St. Louis Company, include other parties than ourselves, and we deny all liability for whatever acts they may have committed. In their behalf, assuming that they were knowingly trespassing on the reservatson, this circumstance only

subjects them to the penalties therefor legally imposed, and cannot deprive them of rights of discovery if they properly perfect their claims after the lands are restored to the public domain, as we understand the decision of the United States Su-Court, above referred to.

The continuous reading of the report is as follows:

In opening these lands to the public, therefore, two principles ought to receive acknowledgment; the one that the value of these mineral veins belongs to the general public and ought to be enjoyed by receiving to the credit of the general public account their money worth and not be allowed to pass under some pretext of disposition to the enrichment of private parties through any favoritism of legislation or administration, and the other that an equal opportunity ought to be afforded to all citizens to obtain upon equal terms these valuable mineral lands.

There seems no other practicable way to accomplish these objects but to dispose of the lands to the highest bidder at auction. All other modes of disposition of public lands now provided by law are merely farcical when applied to such a case as this."

We feel that this is not the occasion on which to discuss the broad principle of offering at public sale to the highest bidder *all mineral lands owned by our Government*; probably as a rule of universal practice some such provision by general law, universally applicable, would be both wise and beneficent; but we have no hesitation in taking a position that any partial law, applicable to an individual instance only, would be so unjust that to call attention to the facts ought to insure its rejection.

The report recites that—

the mineral laws are not adapted in nature to lands of this kind, because the gilsonite or asphalt is easily discoverable and requires no such protracted and costly exploration as must be given, or as usually is given, by those who seek for gold or silver or other mineral.

There must be a distinction made between gilsonite and asphalt, which are spoken of in the report as if the names were synony-

mous. Such is not the case. Gilsonite is an asphalt found only in fissure veins, and its outcrop, owing to its perishable nature, is covered with soil and rubbish hiding it from sight, and making it difficult to locate. The asphalt is not a gilsonite and cannot be in any sense so called. Its deposits are only hardened beds of mineral tar, which have formed around or adjoining springs of that material. They are notably conspicuous and exist in myriad numbers in many of our States and Territories. They are often called gum beds. In but very few instances have they any commercial value.

In addition to the two above named bituminous minerals, there exists in northeastern Utah, and extending from the summit of the Wasatch Mountains to the eastern plains of Colorado, extensive sandrock formations, impregnated with bitumen of various degrees of consistence, and in so small a percentage as to not have any commercial value. It is from these sedimentary strata that the mineral tars have exuded, and also probably, that in some long past age of the world, that from them has been pressed the then viscid substance which has filled the then opening fissures in the overlying beds of rock, and which has from some undefined influences been changed into gilsonite as we now find it.

A vein of gilsonite is much less easily found by a prospector than is a vein of any kind of quartz or other enduring stone; and those legal procedures which provide for giving title to gold and silver bearing veins are specially fitted for veins of gilsonite. The veins of hard material are likely to stand above the native beds in lines of conspicuous dikes, that a prospector may even run against and climb over, while the outcrop of the veins of gilsonite, are burnt away or weathered into decay so that the recognizable material is quite sure to be in a depression, and covered with earth, gravel and vegetable mould.

And we call attention to the fact that this report contains a theory which implies that the right of acquiring mineral claims from public lands rests upon the circumstance of more or less expense or difficulty incurred in finding them. The whole history of mineral discovery throughout the world is but a recount

of romantic accidents, and very rarely, indeed, has rich mineral discovery been the fruit of studied effort. A slipping foothold has uncovered a mineral ledge, a browsing goat exposed metallic gravel; golden nuggets and diamonds have been taken from the chicken's crop; a heedless blow by the prospector's hammer on the rock he was sitting on, and otherwise, by the commonest incident and accident, mineral deposits worth uncounted millions have been revealed and ownership conceded to the lucky finder.

In northeastern Utah are many thousand square miles of rough mountain land containing throughout its whole area many thousand surface deposits of asphaltum; of which not one in a thousand has any commercial value, and the presence of which in a general way has been known to every person who traversed the region. The number of valuable deposits of gilsonite in proportion to the total number of asphalt deposits visible is extremely small, and their selection has been preceded by so much prospecting as to justify the retention of this class of minerals within the provisions of the law applicable to gold and silver deposits.

REMINISCENCES.

There was published in the St. Louis *Globe-Democrat*, June 31, 1890, an official document signed by the President of the St. Louis Gilsonite Company, concerning the bills then pending in Congress for the same purpose as the bill (S. 474) under consideration. The memorial so published was lacking in some respects in information necessary to a full and proper understanding of the case. To remedy these omissions from the text the memorial is reprinted here with a few explanatory interlineations.

Your memorialists respectfully represent that they are interested in and part owners of a mine of gilsonite, a new kind of asphaltum superior to all others, lying in northeastern Utah, near to Fort Duchense, and just east of Uintah reservation; that for this property its present owners, the Gilson Asphaltum Company of St. Louis, Mo., paid [*private claimants*] the sum of \$115,000

[the United States Government having received \$20.00 an acre net]; that at the time of such purchase the said company knew of [an unimportant] deposit of this mineral lying a short distance from the Colorado State line, in the Uncompaghre reservation which had been discovered by B. Zebolt [now Post Trader], an officer of the said Gilson Asphaltum Company. Knowing of the existence of this last deposit, this company [*felt justified in and*] paid for its mine a larger sum than it otherwise would have done, hoping that at some time an opportunity would be given to compete for the purchase of these [unimportant] deposits lying within the reservation [*and thereby securing a control of the gilsonite trade*].

About two years ago some Colorado parties came into the reservation [*south of White River, on Evacuation Creek*], and attempted to locate and operate some of these deposits, putting up wire fences and a shanty; but the Indian Agent, Col. Bryner, expelled them and destroyed their improvements. Latterly the whole reservation has been overrun by prospectors, with the evident purpose of coming to Congress to secure more bills to validate their pretended locations, provided this bill shall become a law. To such an extent has the reservation been overrun by them that the Government officers have been compelled to clear them off [*for the region is so wild and rough that no one can tell his position within it, or guess within miles of possible error the location of the boundary line while this lust is probably not truly located*]. There are [*so far as we know, only*] two deposits of gilsonite within the two ranges of townships proposed to be restored to the public domain by Senate bill 1762; one is a fissure vein about $3\frac{1}{2}$ feet in thickness and about two miles in length; the other deposit is but a small portion of a similar vein, the main body of which lies west of the above-named ranges of townships. All of these [*two small veins*] within the ranges can be taken up under the provisions of Senate bill 1762, by a location of not more than fifteen acres, for which the United States would receive the sum of \$20 per acre, or, in the aggregate, the mere pittance of \$300 [*the same proportionately that was paid the Government for our mines*]. No other valuable mineral [*mind that we do not say other mines of this mineral*] has been found within the Uncompahgre Ute reservation. If the Gilsonite veins within these two ranges of townships were offered by the Government at public sale the Gilson Asphaltum Company stands ready to pay for the veins therein containing that mineral the sum of \$50,000 [*or any other sum that will give us a monopoly of this product*].

If these lands are to be again restored to the public domain in the usual manner, so that all persons would have equal opportunity to make entries and locations, the to us gross injustice of the present bill would be avoided [*although we did not think so two years ago when we sought like legislation*]. Locations have already been made by certain gentlemen of all the gilsonite within three townships [*that is if we know all about the mines in a reservation from which we have always been excluded, and can only know by irregular trespass*]. The effect, therefore, of the present bill is the same as if the Government were saying, "we will sell these lands to those persons at the sum of \$20 per acre." The amendments made to the bill since its introduction make it more objectionable [*to us*] than as it originally stood, for it not only deprives the Secretary of the Interior of the right to offer the lands at public sale [*regardless of acquired rights*], and thereby secure to the Government their real value [*but regardless of the just claims of bona fide locators*], but it also takes from the Uncompahgre Utes the benefits of the moneys that may be realized therefrom [*to which they have no legal claim*].

The original was, before our interlineations were made, signed and sworn to by Charles O. Baxter, president of the company.

THE ACT OF 1888.

Copy of the law by which the St. Louis Gilsonite Company secured title to universal claims, located in the Uintah Valley Reservation.

Chap. 310, Statutes at Large, Vol. 25. An act to restore to the public domain a part of the Uintah Valley Indian Reservation, in the Territory of Utah, and for other purposes. May 24, 1888.

Be it enacted, etc., That so much of the Uintah Valley Indian Reservation, in the Territory of Utah, as lies within the following boundary, * * * be, and the same is hereby, declared to the public lands of the United States and restored to the public domain.

Sec. 2. That said lands shall be disposed of at public or private sale in the discretion of the Secretary of the Interior, and upon his order, in quantities not exceeding one-quarter of a section to any one purchaser, the non-mineral lands for not less than one dollar and twenty-five cents per acre, and not otherwise than

for cash : *Provided*, That any location, entry or entries, mineral or non-mineral, heretofore made or attempted to be made on said lands, or any part thereof, by any qualified person, shall bear date and be allowed the same as if said lands had been public lands at the time of said attempted location or institution of said proceedings, but said mineral entries shall not be completed except upon payment of twenty dollars an acre, or at that rate for the amount taken up by the claim.

[The proceeds of sales to go to Indians] Sec. 3 [ratification by the Indians].

OPINION OF THE SECRETARY OF THE INTERIOR.

On the 14th of March, 1890, in a communication to the Senate Committee on Indian Affairs the Hon. Secretary of the Interior stated facts and opinions relative to the rights of claimants to mineral lands in these eighteen townships as follows :

The Uncompahgre Reservation, created by Executive order of January 5, 1882, was not intended to be set apart as a *permanent reservation* for the Uncompahgres * * * The provisions relative to 'any location, entry, or entries,' etc., allowing them 'to bear date and be allowed the same as if lands had been public lands at the time of said attempted location,' should, I think, be amended. There may have been some claims located near the boundary line and within the reservation, on account of the line not being clearly marked and designated, which claims should be protected, but the proviso should include only such as show conclusively their good faith in making their claims, otherwise the Government is offering a premium to trespassers and violators of law and order of the President in establishing temporary reservation for these Indians.

Very respectfully,

JOHN W. NOBLE,
Secretary.

The claimants to the Bonanza, Cow Boy and the Little Bonanza lodes stand ready to prove the *bona fide* character of all their proceedings in acquiring their claims, they seek an opportunity to do so.

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